

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Michael Drouin, et al.

v.

Civil No. 11-cv-00596-JL

American Home Mortgage
Servicing, Inc., et al.

**ORDER AFTER PRELIMINARY
PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on **July 25, 2012.**

The Discovery Plan (document no. 36) is approved as submitted, with the following changes:

- Joinder of additional parties - **September 7, 2012**
- Amendment of pleadings - **September 7, 2012**
- Disclosure of claims against unnamed parties - **September 28, 2012**
- Close of discovery - **December 14, 2012**
- Plaintiffs' expert disclosure - **November 2, 2012**
- Defendants' expert disclosure - **November 30, 2012**
- Expert challenges - **January 11, 2013**
- Motions to dismiss/for judgment on pleadings - **September 28, 2012**
- Motions for summary judgment - **January 25, 2013**
- Jury/Bench trial - **June 2013**

Based on the discussions between the court and counsel at the conference, the following are **stricken** without prejudice to being reinstated on request if warranted by the evidence:

- American Home Mortgage Servicing, Inc. and Wells Fargo Bank, N.A.'s affirmative defenses nos. 5 (waiver), 9 (statute of limitations), and 10 (ratification of the Note and Mortgage)
- Option One Mortgage Corporation's affirmative defenses nos. 8 (laches) and 9 (res judicata/collateral estoppel)

In addition, on or before **August 15, 2012**:

- Defendants American Home Mortgage Servicing, Inc. and Wells Fargo Bank, N.A. will produce to plaintiffs (a) a signed copy of the Pooling and Servicing Agreement that they claim transferred plaintiffs' mortgage from Option One Mortgage Corporation to Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2004-2; and (b) a copy of the mortgage loan schedule to that agreement. Defendants need not file copies of these documents with the court.
- Plaintiffs will comply with the Rockingham County Superior Court's order of December 14, 2011, by establishing an interest-bearing escrow account with their attorney. Plaintiffs will deposit \$10,181.44, representing payments of \$1,272.68 for each of the months from January 2012 through August 2012, into the account at the time they establish it. Beginning September 1, 2012, and continuing until the resolution of this action, plaintiffs will deposit monthly payments of \$1,272.68 into the account. Noncompliance will result in the preliminary injunction against foreclosure being lifted.

Summary Judgment. The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

Discovery disputes. Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted. If the Magistrate Judge is recused, alternate arrangements will be made.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: July 26, 2012

cc: Robert M.A. Nadeau, Esq.
Paula-Lee Chambers, Esq.
Geoffrey M. Coan, Esq.

Thomas C. Tretter, Esq.
Victor Manougian, Esq.